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March 27, 2020

VIA CM/ECF

The Honorable Debra C. Freeman
United States Magistrate Judge
Southern District of New York
Daniel Patrick Moynihan Courthouse
500 Pearl Street
New York, NY 10007-1312

Re: Master File C.A. No. 1:001898 (VSB), MDL No. 1358
Commonwealth of Pennsylvania v. Exxon Mobil Corp., et al., Case No.
1:14-cv-06228-VSB-DCF
Supplemental Exhibits to Dkt. 438, Defendants' Motion to Compel Production of
Documents and Testimony Withheld on Deliberative Process Grounds

Dear Judge Freeman:

Defendants write to supplement the exhibits to Defendants' Motion to Compel Production of Documents and Testimony Withheld on Deliberative Process Grounds ("Motion to Compel") (Document 438, filed Jan. 4, 2019). The Commonwealth has continued to withhold documents and testimony based on improper claims of "deliberative process privilege." The Commonwealth's objections have impeded Defendants' efforts to obtain necessary discovery. The attachments to this letter include examples of privilege log entries, objections, and correspondence regarding documents and testimony that Plaintiff has withheld based on "deliberative process" assertions since Defendants filed their Motion to Compel. Defendants



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respectfully submit these attachments as supplemental Exhibits L through N in support of their pending Motion to Compel.

Respectfully submitted,

/s/ Graham C. Zorn

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Attachments:

- Supplemental Exhibit L, Commonwealth's Privilege Log (July 3, 2019, revised Sept. 20, 2019) (identifying documents related to the Commonwealth's policy for conducting natural resource damages assessments) (highlighting added);
- Supplemental Exhibit M, email correspondence between M. Han and W. Stack (Feb. 21, 2020) (describing deliberative process as a basis for withholding deposition testimony from former Commonwealth employees) (highlighting added);
- Supplemental Exhibit N, excerpts from the following depositions, in which the Commonwealth asserted deliberative process privilege:
 - P. Allen Tr. at 146:22–148:3;
 - T. Conrad Tr. at 237:13–241:4;
 - R. Rousch Tr. at 95:22–99:14;
 - B. Sexton Tr. at 80:7–82:10; and
 - J. Shirley Tr. at 89:18–91:22, 105:9–106:18.

cc: All Counsel via File & ServeXpress